IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITON NO.277 OF 2005

M/s.Maruti Exports ..Petitioner.

V/s.

P.K.Chopra, Commissioner of Income-tax ..Respondent.

Mr.A.K. Jasani for petitioner.

Mr.R.V.Desai, senior counsel with A.S.Rao for respondent.

CORAM : S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 14TH FEBRUARY, 2005.

P.C. :-

1. Rule, returnable forthwith.

2. The advocate on record for the revenue waives service.

3. By consent, rule is taken on board for hearing.

4. Having considered the impugned order dated 12th march, 2004, we find that the Commissioner of Income Tax, Mumbai XVI failed to take into consideration the relevant aspect that the petitioner did receive the sale proceeds

from some parties after some time over which the petitioner had no control. By overlooking this vital aspect the impugned order is vitiated.

5. We, accordingly, quash and set aside the order dated 15th March, 2004 passed by the Commissioner of Income Tax, Mumbai-XVI and direct him to pass appropriate order afresh in consonance with the provision of Section 80HHC (2)(a) after giving an opportunity of being heard to the petitioner.

6. Petition stands disposed of accordingly. However, there will be no order as to costs.

(S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)